

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

CONSUMER SATELLITE RADIO, LLC

vs.

SIRIUS XM RADIO, INC., et al.

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CASE NO. 2:09-CV-190-TJW

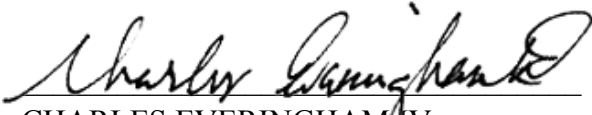
ORDER

Now before the Court is Defendants' motion to compel. (Dkt. No. 78). In their motion, Defendants seek to compel Plaintiff to answer Defendants' Interrogatories 9, 10, and 11. Defendants' interrogatories seek a detailed response to their invalidity contentions, which span more than 200 pages, cite 58 pieces of prior art, and are supported by over 200,000 pages of documents. Plaintiff objects to these interrogatories on the grounds that Defendants' interrogatories are premature and unduly burdensome. The Court agrees with Plaintiff. Seeking a detailed rebuttal of Defendants' voluminous invalidity contentions prior to claim construction would likely require Plaintiff to disclose work product related to claim construction. Moreover, it would require substantial revision after claim construction. Accordingly, the Court DENIES Defendants' motion without prejudice to reurging after claim construction.

Additionally, during the briefing of this motion, Defendants served a third set of interrogatories on Plaintiff. In their reply, Defendants ask the Court to compel a response to those interrogatories. At the time of Defendants' request, Plaintiff's deadline for responding or objecting had not yet expired. Accordingly, Defendants' motion, to the extent that it addresses this third set of interrogatories, is also DENIED as premature. Defendants may file a motion to compel a response to the third set of interrogatories after Plaintiff answers or objects, or after the deadline passes

without answer or objection, bearing in mind the Court's view that such answers might be appropriately deferred until at or near the claim construction hearing.

SIGNED this 5th day of November, 2010.



CHARLES EVERINGHAM IV
UNITED STATES MAGISTRATE JUDGE